

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

In the Matter of)
)
MCI Telecommunications Corporation)
Petition for Rulemaking Regarding)
Billing and Collection Services Provided)
by Local Exchange Carriers for)
Non-Subscribed Interexchange Services)

AUG 14 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM-9108

REPLY OF AMERITECH

Ameritech¹ submits this reply to comments on MCI's petition for rulemaking requesting that the Commission impose a nondiscrimination requirement on local exchange carriers' ("LECs") provision of billing and collection services for "non-subscribed" interexchange services.²

I. COMMENTS SUPPORTING MCI's PETITION
ARE WEAK AND CONTRADICTORY.

The comments in support of MCI's petition provide little more than a recitation of why interexchange carriers ("IXCs") prefer to use LEC billing and collection services and why, therefore, the Commission should concern itself with the terms on which those services are offered.

¹Ameritech means: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc..

² MCI defines these as collect services, calls charged to BOC joint use cards, third party-billed calls, 900 services, and 10XXX calls.

Certain parties supporting MCI note that IXC use of LEC billing and collection services is “essential” because customers “prefer” a single bill for local and long distance service or would otherwise be “inconvenienced” by having to write a separate check to an IXC.³ (This, of course, is contradicted to a certain degree by the fact that, nonetheless, some IXCs force their pre-subscribed customers to endure the inconvenience of a separate bill/check for long distance services.) Others talk about the “credibility” of the LEC bill and of the high LEC “collection rate.”⁴ These facts only speak to the value that LEC billing and collection services provide. By themselves, they offer no reason for the Commission to re-regulate those services.

Some parties claim that competition for LEC billing and collection services has not developed.⁵ Assuming, for argument’s sake, that this is true, it is only a reflection of IXCs’ decision not to avail themselves of alternative billing mechanisms. For example, AT&T claims that it considered rendering its own bill to low-volume users, but found that it could not do so “at cost below ILECs’ incremental costs.”⁶ However, LECs’ “incremental costs” were irrelevant to AT&T’s analysis since LECs were under no obligation to charge based on

³ See Hold Billing Services at 5; Telco at 10; AT&T at 6.

⁴ See Consolidated at 7-8; Telco at 13.

⁵ See, e.g., DNSI at 6-7.

⁶ AT&T at 5.

incremental cost. Rather, AT&T merely found that it could not do so more cheaply than LECs were actually charging for billing and collection services. Thus, AT&T chose not to pursue an alternative billing arrangement, even though it could have done so.

If there are no competitive options to LEC billing, it is simply a reflection of the fact that LEC billing practices have not been unreasonable. If anything, it may be an indication that LECs have not been charging for the full value of the service that they provide. In any event, the request of MCI and other parties that the Commission re-regulate LEC billing and collection services -- especially if it rises to the level of “reasonable rate” regulation mandating incremental cost pricing -- would virtually ensure that no competitive alternative to LEC billing and collection services would develop.

The claims of the “impracticality” or “infeasibility” of developing an alternative billing system for non-subscribed services was echoed by many parties supporting MCI’s petition.⁷ However, these claims are contradicted by MCI’s assurances that the relief it requests would be only “transitional” until an alternative is developed⁸ and by other parties’ representations that such alternatives are “promising.”⁹

⁷ See, *e.g.*, Excel at 10-12; PhoneTime at 5-6; Telco at 10-12.

⁸ Petition at 15.

⁹ See Cable and Wireless at 3; CompTel at 4-5.

The weakness of the arguments supporting MCI is perhaps highlighted by the way in which they can easily be turned as arguments for relief much broader than that requested by the petitioner. DNSI, for example, would require more than the simple nondiscrimination requirement requested by MCI.¹⁰ AT&T requests that the Commission completely re-regulate LEC billing for non-subscribed services.¹¹ And others, such as Excel and Hold Billing would have the Commission effectively re-regulate LEC billing and collection for pre-subscribed IXC services as well because IXCs “prefer” LEC billing services¹² and because of the alleged “impracticality” of IXCs developing their own billing systems for pre-subscribed services,¹³ despite the fact that many IXCs have already done just that.

II. LEC BILLING AND COLLECTION SERVICES ARE NOT “ESSENTIAL FACILITIES” NOT UNBUNDLED ELEMENTS.

Pilgrim’s attempt to have the “essential facilities doctrine” applied to this case misses the mark. First, Pilgrim misquotes the doctrine when it includes “service” in the four criteria.¹⁴ Billing and Collection services are not facilities. No cases cited by Pilgrim support the proposition that services are within the scope of the doctrine. In United States v Terminal R. R. Assoc., a bridge was the

¹⁰ DNSI at 10.

¹¹ AT&T at 4.

¹² Excel at 12.

¹³ Hold Billing at 4.

¹⁴ Pilgrim at 3.

physical facility. In MCI v AT&T, the physical facility was the physical wireline connection to AT&T's end users. In this case, there are no physical facilities. At best, Pilgrim is trying to claim that a LEC's relationship with its end user customer is an essential facility. However, the relationship with the customer is something that every business must take responsibility for establishing on its own as part of doing business. To hold otherwise would be the equivalent of saying that a mail order catalog operation for office supplies could force Sears to permit it to use Sears' credit cards as a billing vehicle simply because Sears has a lot of credit card holders and because it has a "monopoly" in its relationship with its card holder customers.

Moreover, the essential facilities doctrine does not even apply unless the use of the "facility" is denied to a competitor. In this case, Pilgrim and the commentors are seeking to have the Commission regulate LEC billing and collection services even in those cases in which there is no competition with the LEC. And, in any event, in those situations in which BOC affiliates would be involved in direct competition with IXCs, there already exists a statutory prohibition against discriminating in favor of those long distance affiliates with respect to, *inter alia* billing and collection services.¹⁵

Further, those parties that claim that the Telecommunications Act of 1996 imposes broader obligations with respect to billing and collection are simply

¹⁵ §272(c)(1) as added by the Telecommunications Act of 1996.

wrong. For example, Telco argues that the Commission has concluded that “OSS services, including the billing and collection functions, are network elements.”¹⁶ Nowhere in the Act or the Commission’s rules however is there anything remotely close to a statement that billing and collection services constitute network elements. Section 3(29) of the Communications Act of 1934, as amended, includes “information sufficient for billing and collection” in the definition of network element. (Emphasis added.) Moreover, the FCC found that “billing” for OSS purposes “involves the provision of appropriate usage data by one LEC to another to facilitate customer billing.”¹⁷ But nowhere has either Congress or the Commission mandated the provision of billing and collection services.

III. CONCLUSION.

As Ameritech noted in its initial comments, these non-subscribed services are profitable services that IXC’s choose to offer for that reason.¹⁸ MCI’s petition, and the supporting comments of other IXC’s merely constitute a request for the Commission to “protect” IXC’s margins on those services because alternative

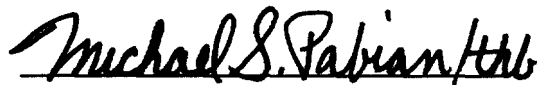
¹⁶ Telco at 6-7.

¹⁷ *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, FCC 96-325 (released August 8, 1996) (at note 1247).

¹⁸ See the attached page from MCI’s 1995 annual report in which it boasted of the roll of 1-800-COLLECT in MCI’s 1994-95 revenue growth.

billing arrangements would be more costly. That provides no justification whatsoever for the Commission to revisit its decade-old decision not to regulate LEC billing and collection services. Therefore, MCI's petition should be denied.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael S. Pabian" with a stylized flourish at the end.

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Dated: August 14, 1997

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Federal Communications Commission (FCC) which, in consultation with the Department of Justice, must find such entry to be in the public interest. With the passage of the legislation, the company can enter local telephone markets by building new facilities, reselling local network capacity, and partnering with other new market entrants, including other long distance companies. It is too soon to determine the legislation's eventual impact on the company's financial position and results of operations.

RECENT ACCOUNTING PRONOUNCEMENTS

In October 1995, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards No. 123 (SFAS 123), "Accounting for Stock-Based Compensation." SFAS 123 establishes financial accounting and reporting standards for stock-based employee compensation plans and is effective for fiscal years beginning after December 15, 1995. The company expects to continue to apply the accounting provisions of Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," in determining its net income. However, beginning in 1996, additional disclosures will be made about the estimated compensation expense under the method established by SFAS 123.

RESULTS OF OPERATIONS

REVENUE

In the business market, revenue and traffic showed continued growth in 1995 and 1994, which was driven by increases in most segments, particularly mid-sized customer, large account and carrier segments. Revenue increases in 1995 were primarily attributable to growth in data products, which grew 34% in 1995, as well as the continued success of the company's virtual private network product (Vnet®), MCI Vision® and 800 services. The 1994 revenue growth was largely in 800 revenue, which resulted, in part, from the FCC's 800 service number portability ruling, which took effect in May 1993, and in data revenue, which increased 35% in 1994, in part, from the company's purchase of BT North America Inc. in January 1994.

In the consumer market, revenue and traffic growth in 1995 and 1994 was driven by the company's Friends & Family products, collect-calling product (1-800-COLLECT), calling card products and consumer 800 number products.

In 1995, revenue of acquired companies contributed to approximately 10% of the company's consolidated year-over-year revenue growth.

TELECOMMUNICATIONS

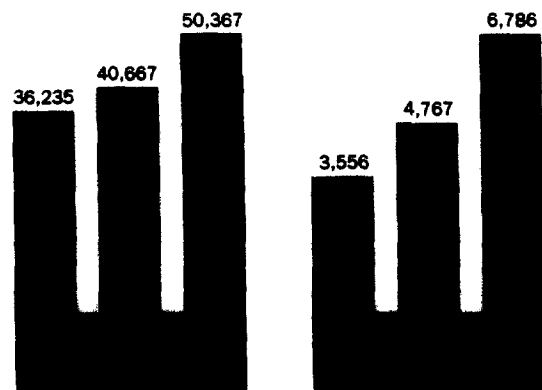
The principal components of telecommunications expense are the cost of access facilities provided by local exchange carriers and other domestic service providers, and payments made to foreign telephone companies (international settlements) to complete calls made to foreign countries from the U.S. by the company's customers. In the core business, telecommunications expense as a percentage of revenue declined to 51.9% in 1995 from 52.1% in 1994 and 53.7% in 1993 due to reductions in domestic access and international settlement rates. The decline from 1993 was also a result of efficiencies resulting from operator services automation.

SALES, OPERATIONS AND GENERAL

Sales, operations and general expenses increased as a percentage of revenue to 29.5% in 1995 from 28.4% in 1994 and 27.8% in 1993. The year-over-year increases primarily related to special charges of \$216 million in 1995, discussed below; \$70 million for the launch of networkMCI BUSINESS™ in 1994; and the \$150 million realignment charge in 1993. The 1995 sales, operations and general expenses also include the cost of hardware and licensed software of approximately \$64 million, which related to information technology services revenue of SHL since its acquisition in November 1995. Excluding these costs and the special charges, sales, operations and general expenses would have been 27.7%, 27.9% and 26.5% of revenue in 1995, 1994 and 1993, respectively. The 1995 decrease in these expenses as a percentage of revenue was primarily due to cost savings associated with reorganization efforts, while the increase in 1994 was primarily due to higher personnel costs, higher levels of advertising and related sales and marketing expenses.

NUMBER OF
FULL-TIME EMPLOYEES

CAPACITY
CIRCUIT MILES
in millions



CERTIFICATE OF SERVICE

I, Todd H. Bond, do hereby certify that a copy of the foregoing Reply of Ameritech has been served on the parties on the attached service list, via first class mail, postage prepaid, on this 14th day of August, 1997.

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